



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

June 1, 1939

GERALD C. MANN
ATTORNEY GENERAL

Hon. Carl Periman
County Attorney
Memphis, Texas

Dear Sir:

Opinion No. 0-573

Re: Does the Commissioners' Court have authority to approve and pay bills for hospital treatment of citizens outside the county?

Your letter of May 15, 1939, addressed to Hon. Gerald C. Mann, Attorney General, has been referred to the writer for consideration and reply.

Part of your letter is as follows:

"There are two items for hospital treatment, one at Plainview and one at Tulia (both points being outside Hall County), charged against Hall County. The persons treated were Hall County Citizens and each case was authorized or rather approved by a Hall County Officer and it was promised, as alleged, the county would pay the bills if lawful to do so. . . ."

"Hospital bills for treatment of indigent patients when originating within the county are being paid. The cases at issue are for treatment of indigent people."

You request an opinion of this department as to whether or not the county may lawfully pay the above two items.

Your attention is directed to Article 2351, Section 11, Revised Civil Statutes of Texas providing powers of the Commissioners' Court, as follows:

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"Provide for the support of paupers and such idiots and lunatics as cannot be admitted into a lunatic asylum, residents of their county who are unable to support themselves. By the term resident as used herein, is meant a person who has been a bona fide inhabitant of the county not less than six months and of the state not less than one year."

Section 12 of Article 2351, aforesaid, provides as follows:

"Provide for the burial of paupers."

However, your question does not relate to the support of paupers. The parties suffering the two items of hospital treatment were indigent sick, and there is no question as to whether or not these people are paupers and coming within the provision of article 2351 above set out.

Article 4438, Revised Civil Statutes of Texas, provides as follows:

"If there is a regular established public hospital in the county, the Commissioners' Court shall provide for sending the indigent sick of the county to such hospital. If more than one such hospital exists in the county, the indigent patient shall have the right to select which one of them he shall be sent to."

The authority of the Commissioners' Court is limited in providing for treatment of the indigent sick to public hospitals within the county, and the authority is excluded to send such indigent sick to private hospitals within or without the county, or to public hospitals without the county.

Willacy County v. Valley Baptist Hospital, 29 SW (2d) 456.

Therefore, it is our opinion and you are so advised that the Hall County Commissioners' Court has no

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authority to pay items of hospital treatment for indigent sick to any hospital outside of Hall County.

Believing this to answer your inquiry, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

Pat Gdon
Pat Gdon
Assistant

PC:enb

APPROVED:

Gerrell Mann
ATTORNEY GENERAL OF TEXAS